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18. (once amended) An oven in accordance with Claim 9 wherein said cooking chamber further comprises a door hingedly attached to said cooking chamber, said oven rack support system further configured to stabilize said oven rack against said oven door.

19. (once amended) An oven in accordance with Claim 9 wherein said oven rack is configured to be used as a trivet on a countertop.

REMARKS

The Office Action mailed February 26, 2003, has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1-19 are now pending in this application. Claims 1-19 stand rejected. Claims 2 and 13 are cancelled by this amendment.

Claim 4 has been amended to recite "said first portion" in lines 3-4, adopting the Examiner's suggestion.

The rejection of Claims 1-19 under 35 U.S.C. § 103(a) as being unpatentable over Koziol (U.S. Patent No. 4,848,217) in view of Carpenter et al. (U.S. Patent No. 3,266,484) is respectfully traversed. Although the office action dated February 26, 2003 explicitly rejects claims 1-8 only, a reading of the explanation of the rejection indicates that the rejection was intended to apply to Claims 1-19, and Applicant is responding accordingly. Claims 2 and 13 are cancelled.

Koziol describes a multipurpose cooking rack 10 including a body portion 11 composed of a multiplicity of V-shaped wires 12 spaced equidistantly along a longitudinal axis. The V-shaped wires are interconnected by longitudinally extending wires 14. Wires 15 providing peripheral support and wires 16 which are intermediate peripheral wires 15 and the apex of the "V" provide the intermediate support. Combined handle and foot members 18 are attached at the

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ends of body portion 11 (col. 2, lines 47-60). The V-shaped wires terminate in impaling members 13 having ends terminating in a point 28 so as to aid in the piercing or impaling of food items (col. 2, line 63 – col. 3, line 3). Notably, when the rack is used with the impaling members extending downward, the food impaling members do not extend to contact the roasting surface so that their sharpened points will not be dulled (col. 3, lines 13-16). The food impaling members, therefore, cannot act as support legs.

Carpenter et al. describe a broiler rack including a main rack 11 and an auxiliary rack support structure 12 arranged below the main rack 11 at one side of an oven. The auxiliary support structure 12 can be collapsed and locked against the main rack. The main rack and auxiliary support structure are constructed of ordinary wire or rod (col. 2, lines 24-30). Notably this broiler apparatus attaches to the upper portion of the oven and does not contact the oven floor or bottom surface.

Applicant respectfully submits that the Section 103 rejection of the presently pending claims is not a proper rejection. Obviousness cannot be established by merely suggesting that it would have been obvious to one of ordinary skill in the art to modify Koziol according to the teachings of Carpenter et al. More specifically, as is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention absent some teaching, suggestion, or incentive supporting the combination. Neither Koziol nor Carpenter et al., alone or in combination, describe or suggest the claimed combination. Rather, the present Section 103 rejection appears to be based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Specifically, Koziol is cited for teaching an oven rack having first and second portions, and Carpenter et al. are cited for teaching an oven having a bottom surface and at least three sides. Since there is no teaching or suggestion in the cited art of the claimed combination, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible,

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and for this reason alone, Applicant respectfully requests that the Section 103 rejection of Claims 1, 3-12, and 14-19 be withdrawn.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicant's disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicant's disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion or motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Claims 1 recites an oven rack including "a first portion comprising a first side and a second side; a support system attached to said first portion between said first and second sides, said support system comprising at least a first leg and a second leg rearwardly displaced from said first leg, said first and second legs extending a substantially equal distance from said first portion; a second portion extending obliquely from said first portion; and at least one handle extending from said first side of said first portion".

Neither Koziol nor Carpenter et al., either alone or in combination, describe or suggest an oven rack including a first portion including a first side and a second side, a support system attached to the first portion between the first and second sides, the support system including at least a first leg and a second leg rearwardly displaced from the first leg, the first and second legs extending a substantially equal distance from the first portion, a second portion extending obliquely from the first portion, and at least one handle extending from the first side of the first portion. Moreover, neither Koziol nor Carpenter et al, either alone or in combination, describe or suggest a support system attached to the first portion between the first and second sides, the support system including at least a first leg and a second leg rearwardly displaced from the first

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leg, the first and second legs extending a substantially equal distance from the first portion. Rather, Koziol describes a rack having feet/handles at the ends and with at most only one leg extending from a first portion. The assertion in the office action that the impaling members 13 represent multiple legs is traversed since these do not contact the oven bottom. Carpenter et al. describe a broiler rack mounted to a main rack in the upper portion of an oven. For the reasons set forth above, Claim 1 is submitted to be patentable over Koziol in view of Carpenter et al.

Claims 2 and 3-8 depend, directly or indirectly, from independent Claim 1. When the recitations of Claims 2 and 3-8 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 2 and 3-8 likewise are patentable over Koziol in view of Carpenter et al.

Claim 9 recites an oven including "a cooking chamber comprising a bottom surface, and at least three sides; an oven rack configured to rest on said bottom surface of said cooking chamber, said oven rack comprising a first side and a second side; and a support system attached to said oven rack between said first and second sides, said support system comprising at least a first leg and a second leg rearwardly displaced from said first leg, said first and second legs extending a substantially equal distance from said oven rack".

Neither Koziol nor Carpenter et al., either alone or in combination, describe or suggest an oven including a cooking chamber including a bottom surface, and at least three sides, an oven rack configured to rest on the bottom surface of the cooking chamber, the oven rack including a first side and a second side, and a support system attached to the oven rack between the first and second sides, the support system including at least a first leg and a second leg rearwardly displaced from the first leg, the first and second legs extending a substantially equal distance from the oven rack. Moreover, neither Koziol nor Carpenter et al., either alone or in combination, describe or suggest a support system attached to the oven rack between the first and second sides, the support system including at least a first leg and a second leg rearwardly

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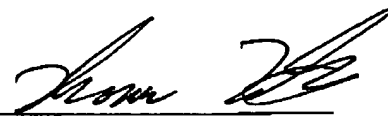
displaced from the first leg, the first and second legs extending a substantially equal distance from the oven rack. Rather, Koziol describes a rack having feet/handles at the ends of the rack and Carpenter et al. describe a broiler rack mounted to a main rack in the upper portion of an oven. For the reasons set forth above, Claim 9 is submitted to be patentable over Koziol in view of Carpenter et al.

Claims 10-12 and 14-19 depend, directly or indirectly, from independent Claim 9. When the recitations of Claims 10-12 and 14-19 are considered in combination with the recitations of Claim 9, Applicant submits that dependent Claims 10-12 and 14-19 likewise are patentable over Koziol in view of Carpenter et al.

For the reasons set forth above, Applicant respectfully requests that the Section 103 rejection of Claims 1-19 be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Arthur Cameron Wilson

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Art Unit: 3743

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Serial No.: 09/659,112

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Examiner: Cocks, Josiah C.

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Filed: September 11, 2000

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For: TRIVET OVEN RACK

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SUBMISSION OF MARKED UP CLAIMS

Box: NON-FEE AMENDMENT

Commissioner for Patents

Washington, D.C. 20231

Sir:

In furtherance of the response to the Office Action dated February 26, 2003, Applicant hereby submits marked up claims in accordance with 37 C.F.R. §1.121(c)(1)(ii).

IN THE CLAIMS

Please cancel Claims 2 and 13.

1. (once amended) An oven rack comprising:

a first portion comprising a first side and a second side;

a support system attached to said first portion between said first and second sides, said support system comprising at least a first leg and a second leg rearwardly displaced from said

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first leg, said first and second legs extending a substantially equal distance from said first portion;

a second portion extending obliquely from said first portion; and

at least one handle extending from said first side of said first portion.

3. (once amended) An oven rack in accordance with Claim [2] 1 wherein said support system comprises a plurality of legs extending from said first portion.

4. (once amended) An oven rack in accordance with Claim 1 wherein said first portion comprises a plurality of first rods and a plurality of second rods, said first rods extending between said first side of said first portion and said second side of said first portion, said second rods attached substantially perpendicularly to said first rods.

9. (once amended) An oven comprising:

a cooking chamber comprising a bottom surface, and at least three sides;

an oven rack configured to rest on said bottom surface of said cooking chamber, said oven rack comprising a first side and a second side; and

a support system attached to said oven rack between said first and second sides, said support system comprising at least a first leg and a second leg rearwardly displaced from said first leg, said first and second legs extending a substantially equal distance from said oven rack.

14. (once amended) An oven in accordance with Claim [13] 2 wherein said support system comprises a plurality of legs extending from said [first portion] oven rack.

17. (once amended) An oven in accordance with Claim [13] 2 wherein said oven rack support system is further configured to prevent said oven rack from over-extending from said cooking chamber.

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18. (once amended) An oven in accordance with Claim [13] 9 wherein said cooking chamber further comprises a door hingedly attached to said cooking chamber, said oven rack support system further configured to stabilize said oven rack against said oven door.

19. (once amended) An oven in accordance with Claim [13] 9 wherein said oven rack is configured to be used as a trivet on a countertop.

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